

## POWERS AND DUTIES OF THE COMMISSION IN CONDUCTING PROTEST PROCEEDINGS

Government Code Section 57000 (effective January 1, 2001) requires the Commission to conduct "protest proceedings" to determine whether the proposal can be ultimately approved without an election, whether an election should be held, or whether the proposal must be terminated due to majority protest. This is purely a ministerial process, where the Commission simply counts the written protest submitted to an action, determines the percentage that the landowner or voter protest bears to the total number of landowners and/or voters, and takes action based on that level of protest. Because this is a ministerial process, the Commission has delegated the responsibility for conducting the protest hearings to the Executive Officer.

The purpose of the protest proceedings is to provide a forum wherein the popularity of the issue is tested. Depending on the results of that test, the proposal is either approved or denied, as shown in the following outline:

### 1. INITIATION OF PROCEEDINGS:

Within thirty-five (35) days of the adoption of a resolution of approval by LAFCO, the formal protest proceedings must be initiated by providing legal notices of the protest hearing. The final protest hearing must be set for a date not less than fifteen (15) or more than sixty (60) days after the notice is given.

The Commission may waive protest proceedings if the proposal contains 100% landowner consent, is uninhabited, and the affected agencies who would gain or lose territory as a result of the proposed jurisdictional change have provided written consent to the waiver of these proceedings, as authorized by Government Code Section 56663. That section also authorizes the Commission to waive protest proceedings for inhabited areas if none of the registered voters and none of the landowners have indicated opposition to the proposed annexation.

### 2. NOTICE:

The LAFCO Executive Officer must publish the notice of hearing to be held on the proposal in a newspaper of general circulation; must send individual notices to everyone who has formally requested such notice, and to other local agencies as outlined by statute.

### 3. FINAL HEARING:

The LAFCO Executive Officer shall conduct the final hearing and make

findings related to the level of written protest received. Based upon the level of protest received, the Executive Officer shall issue a resolution taking one of the following actions:

- a. Approval. If less than 25% of the voters in an "inhabited" proposal (legally defined as an area containing 12 or more voters), or if less than 50% of the landowners in an "uninhabited" proposal submitted written protest to the action, then the proposal must be approved, without an election.
- b. Call for Election. If written protests are filed by at least 25% and less than 50% of the voters, or 25% - 100% of the landowners in an inhabited area, then an election must be called and held, so the voters may decide the issue.
- c. Denial. If written protests are filed by 50% or more of the voters in an inhabited area, or if landowners representing 50% or more of the assessed value of an uninhabited annexation area have filed written protest, then the proposal must be denied.

NOTE: If the proposal is for city detachment or district annexation, the proposal shall be terminated if the detaching city or annexing district files an objection to that action, regardless of the level of consent or protest from affected landowners and voters.

4. COMPLETION:

If the proposal is approved, LAFCO issues a Certificate of Completion and notifies the state and other agencies of the successful jurisdictional change. If LAFCO has waived the protest proceedings, the resolution adopted by LAFCO is considered the final resolution and becomes part of the completion package.

If the proposal is terminated, LAFCO issues a Certificate of Termination and notifies the various agencies and individuals that the jurisdictional change will not take place.